

GAHC010020242023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/614/2023

MD HABIBAR RAHMAN
S/O- LT. MEHER ALI, R/O- VILL- KACHUGAON, P.O. BAGHMARI, P.S.
BILASIPARA, DIST.- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
ELEMENTARY EDUCATION, DISPUR, GHY-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DY. COMMISSIONER
DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

4:THE DEEO
DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

5:THE BEEO
BILASIPARA
DIST.- DHUBRI
ASSAM
PIN- 783348

6:THE HEADMASTER

KACHUGAON M.E. MADRASSA
VILL- KACHUGAON
P.O. BAGHMARI
P.S. BILASIPARA
DIST.- DHUBRI
ASSAM
PIN- 783345

7:SADDAMUL KHAYER
CHOWKIDER OF KACHUGAON M.E. MADRASSA
VILL- KACHUGAON
P.O. BAGHMARI
P.S. BILASIPARA
DIST.- DHUBRI
ASSAM
PIN- 78334

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

27-03-2023

Heard Mr. M. A. Islam, learned counsel for the petitioner and Mr. B. Kaushik, learned Standing Counsel, Department of School Education for the respondent Nos. 1, 2, 4 and 5. Also heard Mr. P. Saikia, learned Government Advocate, Assam for the respondent No.3.

On being appointed as a Grade-IV Chowkidar in Kachugaon M.E. Madrassa under Bilasipara Education Block of District-Dhubri by the Managing Committee of the said Madrassa on 01.03.1986 during its venture stage, the petitioner joined his service in the said Madrassa and is serving in it till date.

While consider the provincialisation of service of the non-teaching staff of the

said School under the provisions of *the Assam Education (Provincialisation of Services of Non-Teaching Staff of Venture Educational Institution) Act, 2018*, the District Scrutiny Committee, Dhubri instead of recommending the name of the petitioner, recommended the name of the respondent No.7.

Being aggrieved with the same, the petitioner has preferred this writ petition, praying amongst others for a direction to the respondents herein to set aside and quash the list of provincialisation of the service of the respondent No.7 as Chowkidar of the said Kachugaon M.E. Madrassa and to direct the respondent authorities to provincialise his service.

Section 8 of said 2018 Act provides as follows:--

“Appellate authority

The State Level Scrutiny Committee shall be the appellate authority in respect of any recommendation of the District Scrutiny Committee and the State Government in the concerned administrative department shall be the Appellate Authority in respect of any recommendation of the State Level Scrutiny Committee.”

The Hon'ble Supreme Court in the case of *the Commissioner of Income Tax and Another Vs. Chhabil Dass Agarwal* reported in (2014) 1 SCC 603 held that “*when a statutory forum is created by law for redressal of grievances, writ petition should not be entertained ignoring said statutory provision.*”

In view of the above, the petitioner shall approach the concerned State Level Scrutiny Committee by preferring a statutory appeal on or before **12.04.2023** along with a certified copy of this order and a copy of this writ petition including the Annexures appended thereto for redressal of his grievances.

In the event of filing of such appeal by the petitioner before the concerned State Level Scrutiny Committee as directed above, the concerned State Level Scrutiny Committee on perusal of the relevant records and after giving an opportunity of

hearing to the petitioner and the respondent No.7 shall dispose of his said appeal by a reasoned order, intimating him about the outcome of the same.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant